

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA 506/2003

Dated Monday this the 21st day of July 2003.

C O R A M

HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER
HON'BLE MR.K.V.SACHIDANANDAN, JUDICIAL MEMBER

1. N.Kandaswamy
S/o Naryana Pillai
General Secretary for and on behalf of
ESI Corporation
Pensioners Association
Kerala
Karyasree, Ayyanthole
Trichur.
2. M.A.George
S/o Late Antony
Retired Insurance Inspector
Malayattil House
Pudukkad, Trichur Dist.

Applicants.

(By advocate Mr.V.N.Ramesan Nambisan)

Versus

1. Union of India represented by
Secretary to Government
Ministry of Pensions
Department of Pensions
New Delhi.
2. The Employees State Insurance Corporation
represented by its Director General
New Delhi.
3. The Regional Director
ESI Corporation
Trichur.

Respondents.

(By advocate Mr.C.B.Sreekumar, ACGSC for R1)
(By Mr.T.V.Ajayakumar for R2&3)

The application having been heard on 21st July 2003, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER

There are two applicants in this case. The first applicant is the ESI Corporation's Pensioners Association, Kerala represented by Sh.N.Kandaswamy, General Secretary of the Association, and the second applicant is Shri M.A.George, a retired Insurance Inspector. The grievance of the applicants is

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that the retired employees of the ESI Corporation are not being given, the fixed medical allowance of Rs.100 per month on the ground that as their residences are situated within a radius of 8 kilometers from ESI dispensaries, such allowance is not admissible. The first applicant's A-9 representation in this regard made to the third respondent was rejected as per the impugned A-10 communication dated 5.6.02 which is quoted below;

"Regional Office (Kerala)
Employees State Insurance Corporation
'Panchdeep Bhavan', Thrissur - 20'

No.54-A.40.14.243.01.Admn.II

Dated 5.6.2002

Sri N.Kandaswamy
General Secretary
ESIC Pensioners Association
'Kavyasri', Ayyanthole
Thrissur - 3.

Sir,

Sub Medical Allowance to Pensioners of ESIC - reg.
Ref Your letter No.KL/PN/9/2002 dt.14.5.2002.

With reference to the letter cited above, I have to inform you that the dispensaries situated within a radius of 8 kms. from the residence of pensioners are treated as dispensaries functioning in the area. You may please take up the matter with the Headquarters Office in case of any grievance.

Yours faithfully,

Sd/-
Dy.Director (Adm)"

2. The applicants seek the following reliefs:
- (a) An order quashing A-10 order dated 5.6.02 of the 3rd respondent.
 - (b) Issue an order directing the respondents to provide fixed medical allowance @ Rs.100/- per month to all the ESI pensioners who do not opt for the ESI dispensaries or O.P. treatment facilities;
 - (c) To declare that the distance restriction imposed vide A-10 is arbitrary, unreasonable and violative of Articles 14 & 21 of the Constitution of India;

Yes

- (d) To declare that the ESI pensioners of Kerala are entitled for the benefit of medical facilities through ESI dispensaries on periodical payment of scheme which is in vogue in the case of Central Government employees and ESI Corporation Employees and pensioners other than Kerala;

3. Shri T.V.Ajayakumar, learned counsel for respondents 2 & 3 and Shri C.B.Sreekumar, learned ACGSC for respondent No.1 took notice on behalf of the respective respondents.

4. When the matter came up for hearing on admission, the learned counsel for the applicants submitted that as far as the Central Government employees are concerned, the restriction regarding non availability of medical allowance on the basis of stay within a radius of 8 kilometers has been done away with by a specific order No.38/99 dated 17.4.2000. The learned counsel would also invite our attention to an order of this Tribunal in OA No.430/2000 turning on similar claim preferred by some retired employees of Railways where the fixed medical allowance was directed to be allowed although such retired employees were found to be residing within a radius of 8 kilometers from the dispensary. According to the counsel, the said order of this Tribunal has since been confirmed by the Hon'ble High Court of Kerala. Shri T.V.Ajayakumar, the learned counsel for respondents 2 & 3 drew our attention to the A-10 impugned order wherein the General Secretary of ESI Pensioners' Organization was specifically advised to take up the matter with the Headquarters office in case of any grievance arising out the said order. The counsel would contend that the applicants in this case ought to have taken up the matter with the Headquarters office in order to have a fresh look at the policy matter and for favourable orders if feasible. The learned counsel of the applicants would submit that if the applicant is permitted to make a detailed representation to be made to the second respondent with

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supporting material and if the said respondent is directed to dispose of the same within a time frame, the purpose of this OA would be served. The learned counsel of the respondents pointed out that the respondents would have no objection to such a course of action being taken.

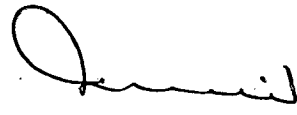
5. In the light of the above submissions, we do not undertake to look into the merits of this case, and accordingly proceed to dispose of the OA by permitting the applicants to make a detailed representation highlighting all their grievances arising out of grant of medical allowance and directing the respondents particularly respondent No.2 to consider and dispose of the same within a reasonable time.

6. The applicants are, therefore, permitted to submit a detailed representation to the second respondent within 2 weeks from today and the second respondent is directed to consider the same judiciously and dispose of the same with appropriate orders within a period of 3 months from the date of receipt of such representation. The application is disposed of as above. No order as to costs.

Dated 21st July, 2003.



K.V.SACHIDANANDAN
JUDICIAL MEMBER



T.N.T.NAYAR
ADMINISTRATIVE MEMBER

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